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Paper No. 13

NUVASIVE INC
10065 OLD GROVE ROAD
SAN DIEGO, CA 92131

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In re Application of
Dan K. Ahlgren
Application No. 09/904,179
Filed: July 11, 2001
Attorney Docket No. 5510US

OFFICE OF PETITIONS
ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed November 10, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The Deposit Account No. 60-2040 provided on the decision mailed August 4, 2003 was incorrect but when the Office of Finance attempted to withdraw the money from Deposit Account No. 50-2040, there were insufficient funds in the Deposit Account.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, the over payment of \$685.00 extension of time submitted with the petition on November 10, 2003 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 305-9282.

The application file is being forwarded to Technology Center AU 3732.

Wan Laymon
Wan Laymon

Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy